

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

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FILE: B-212428.2**DATE:** November 22, 1983**MATTER OF:** Le Prix Electrical Distributors, Ltd.**DIGEST:**

GAO will not disturb a small purchase contract where after award the contracting agency discovered the protester's misplaced timely quotation, absent evidence of a conscious or deliberate effort by contracting personnel to exclude the protester from consideration.

Le Prix Electrical Distributors, Ltd. protests the issuance of a purchase order by the Department of the Army to E. P. Reid, Inc. for fire detection equipment. Quotations for this small purchase procurement were solicited under request for quotations (RFQ) No. DAAA03-83-Q-0112. Le Prix alleges that its quotation was misplaced by the Army, and that it is entitled to receive compensation for the Army's mistake. We deny the protest.

The RFQ was issued on January 17, 1983 and, pursuant to Amendment 0001, quotations were due on March 18. According to the Army, Le Prix telephoned a quotation of \$21,444 to the procuring activity on or about March 11. Although Le Prix denies ever telephoning this figure, the Army has forwarded the quotation abstract sheet which shows Le Prix's price recorded as \$21,444. Le Prix states that it mailed a price of \$9,007 to the procuring activity on March 16, and supplemented this with a telephone quotation in the same amount on March 18. The purchasing agent has no recollection of receiving any telephone call from Le Prix on that date. The Army does concede, however, that the written quotation was somehow mishandled, in that it did not reach the appropriate procurement office until 2 months later, and was not seen by the purchasing agent until he examined his file in response to Le Prix's initial protest of July 18 to the agency.

After the March 18 receipt of quotations, the issuing activity requested a change in the specifications. The Army then established a competitive range of all offerors whose quotations were within \$3,000 of E. P. Reid's low price of

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\$8,910.70, and issued Amendment 0002 to these firms to change the specifications and to extend the closing date to May 6. Le Prix, with its recorded quotation of \$21,444, therefore was excluded from the competitive range along with six other offerors. All remaining offerors raised their prices in response to the amendment, but E. P. Reid remained low at \$9,378.70 and was issued the purchase order on May 23. Le Prix now protests that because the Army mishandled its quotation of \$9,007, the firm was improperly excluded from the competitive range and should have received the purchase order because its price was less than E. P. Reid's.

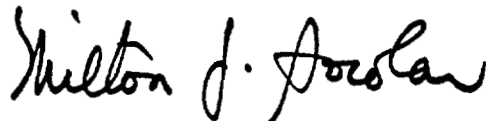
Even assuming that, but for the Army's error in mis-handling Le Prix's written quotation of \$9,007, the firm would have been included in the competition under Amendment 0002, we do not object to the award to E. P. Reid. In this respect, the parties' dispute about whether Le Prix initially quoted \$21,444 is irrelevant, since in fact the Army admits it should have recorded the firm's written quotation of \$9,007 and thus included Le Prix in the competitive range.

We have held that, in a small purchase procurement, an award should not be disturbed when a timely but misplaced quotation is discovered after the issuance of a purchase order, even if that quotation is lower than the awardee's, absent evidence of a conscious or deliberate effort by contracting personnel to exclude the protester. R. E. White & Associates, Inc., B-211333, June 28, 1983, 83-2 CPD 38; R. E. White & Associates, Inc., 61 Comp. Gen. 320 (1982), 82-1 CPD 294.

As stated above, Le Prix claims that it telephoned its price of \$9,007 to the purchasing agent on March 18. As evidence, the firm has furnished a copy of its telephone bill showing a call to the procuring activity on that date. The telephone bill, however, only establishes that a call of 4 minutes duration was placed to the agency on March 18; it does not establish that it was made to the purchasing agent, or that a figure of \$9,007 was quoted. See Universal Design Systems, Inc.--Reconsideration, B-211547.2, June 28, 1983, 83-2 CPD 41. Also, the purchasing agent states that he does not recall receiving a telephone call from Le Prix on March 18. Under these circumstances, we are not persuaded by Le Prix's telephone bill that there was a deliberate effort by contracting personnel to preclude Le Prix from receiving the order in issue.

Le Prix also requests compensation because of the Army's error. There is no legal basis, however, to permit Le Prix recovery of anticipated profits or the cost of goods ordered from suppliers in expectation of a contract award. See W. H. Mullins, B-207200, February 16, 1983, 83-1 CPD 158.

The protest and claim are denied.

for 
Comptroller General
of the United States